

# THE BOSTON INFORMER

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## Why Develop Air Rights?

Ever since the City of Boston in 2000 issued "A Civic Vision for Turnpike Air Rights in Boston" from the study group ably chaired by David Lee of Stull and Lee, lots of observers really get it that there are significant cost premiums to developing air rights over roadways. And given the 10-year effort to build Columbus Center over the Turnpike at Dartmouth Street, the abandoned Millennium Tower at Massachusetts Avenue that everyone hated and the problems with building over the Rose Fitzgerald Kennedy Greenway ramps, one has to ask why would anyone want to develop air rights?

Early history of air rights in Boston includes the Custom House Tower, the new Mass. Eye and Ear Building, State House and Cathedral Housing in the South End. The first two were built over existing buildings and the second two over roadways. MassPike has been granting air rights developments since the early 1960s when the Newtonville Star Market was built over the road and Gateway Center in Newton Corner was completed. The 1984 Copley Place development was built on a small portion of air rights as was the John Hancock Garage.

So why is building on road or rail air rights attractive? A look back at Boston's most significant air rights projects has some clues. First, the Prudential Center in 1959 and the 1980s Southwest Corridor Project deck were done as air rights for an overriding public purpose, to remove a "blighted area" and knit together communities. Planner Kevin Lynch said the abandoned rail lines over which the Prudential Center was built "seem to dismember the city" and historian Walter Muir Whitehill said the Prudential Center improvement "may redeem many lost opportunities on Huntington and Massachusetts Avenue." The Boston Redevelopment Authority (BRA) was created in 1957 and the City Planning Board was eliminated in 1960, consolidating planning and development functions at the BRA and emphasizing development during Prudential Center

negotiations.

Second, a developer's desire for highest and best return, achievable with air rights development by building downtown, tall and iconic structures.

Third, agencies encourage air rights development for the sale or lease revenues and linear parks. Key to understanding why obstacles to air rights development seem so high is the shift in thinking about the role of government in the infrastructure business. The 1960s was a time of government funding for public infrastructure—urban renewal plans and big investments in roadways.



Source: Yannick Tsoukatos collection

Star Market in Newtonville rebuilt in the mid-1960s after being taken by the Turnpike, leading MassPike into developing its first air-right lease.

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Nixon and Reagan shifted away from public funding and embraced private investment and public-private partnerships. Where in the 1960s an overriding public purpose to eliminate rail yards in Back Bay led to public assistance to build over the tracks, by Reagan's time and the 1980s, the public sector was no longer in the business of aiding construction as much. City and state policies must be aligned, as Boston now has a say in what and how much is developed on MassPike air rights parcels.

The Central Artery/Tunnel urban design process identified a number of air rights parcels as well as landscaped areas above the depressed

roadway (Charlestown and downtown). Urban designers developed a scheme in which four feet of planting soil (required depth for tree planting and growth) was the same as what is needed to support a four-story structure.



MassPike is reviewing proposals for air rights development in Back Bay at Mass. Avenue. Plans for these parcels in 1999 met neighborhood opposition and led to the 'Civic Vision' process and development guidelines. Trinity Financial's proposal has 546 residential units and a low parking ratio.

However, not many downtown developers visualize four-story buildings, one reason being the need for higher density to cover the costs of spanning the Turnpike or tunnels and have a generous return on their investments. The 1999 Civic Vision study said the cost for creating land (aka "construction premium") over the Turnpike ranges between \$250-\$350 per s.f. or \$11-\$25 million an acre.

But if civic good is the goal of air rights development—"cover the gaping scar in the neighborhood"—the public would pay the difference between the cost of creating the new platform and the cost of adjacent land. The battle of Columbus Center indicates developer, agency and public interests for developing air rights are sometimes not allied.

## Developer Promises to Demolish Garage

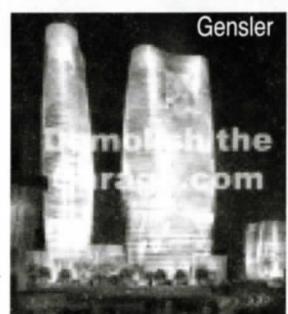
The Raymond Company and Bulfinch Congress Holdings are moving ahead with concept designs for the Government Center Garage and city-owned A-2 Police Station on nearby Hawkins Street. The developers had previously prepared a Master Plan/Urban Design Plan (Chan Krieger Sieniewicz) to establish a framework for the massing and overall site structure. The developer hosted a series of public meetings before initiating the Boston Redevelopment Authority's Article 80 review process to get input on what is important for the site. It also solicited responses from five internationally acclaimed design firms showing how the proposed master plan could be brought forward into conceptual building designs.

The five firms in the competition were Cook + Fox, Foster & Partners (London), Gensler, Skidmore Owings and Merrill and Office of Metropolitan Architecture (Koolhaas). The parameters for each design firm were set: 3.5 million s.f., 2,400 parking spaces, phased construction/development, two towers with

heights not to exceed 350 feet and 700 feet, with the lower massing at the Rose Fitzgerald Kennedy Greenway end of the parcel. The developer is now reviewing the designs and considering the various massing and architectural responses.

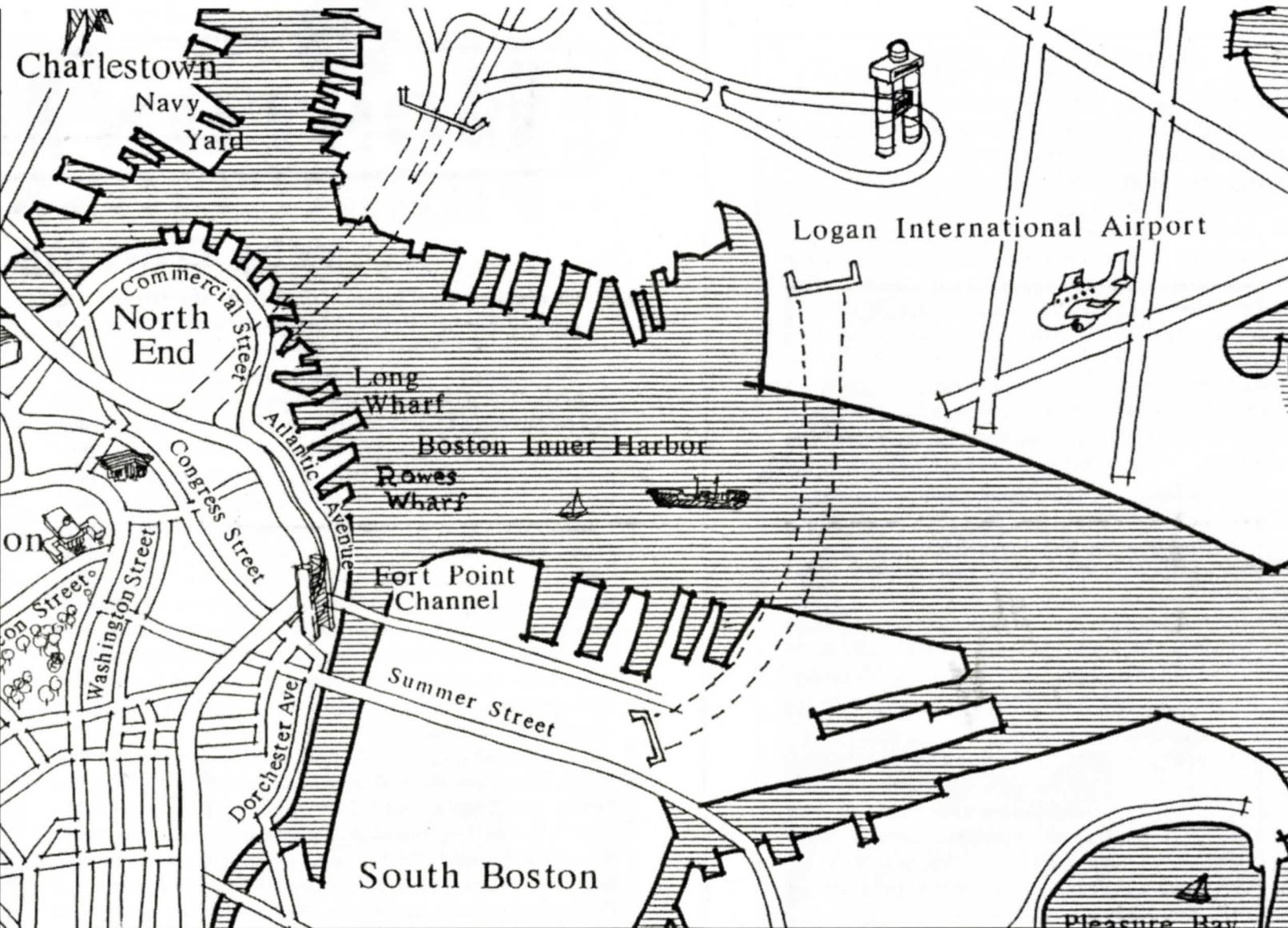
A Project Notification Form for the BRA will eventually be filed and will include the massing developed for the master plan, not information from the competition. Leases on the office and retail spaces in the garage expire in 2010 by which time the developer hopes to have all of the required approvals and permits in hand in order to proceed on the first phase of the large and significant development on the four-acre-plus parcel.

Five renowned architectural firms submitted ideas for the One Congress Street parcels emphasizing their approach to creating a sustainable project.



[DemolishtheGarage.com](http://DemolishtheGarage.com)

Source: Raymond Property Co. presentation materials

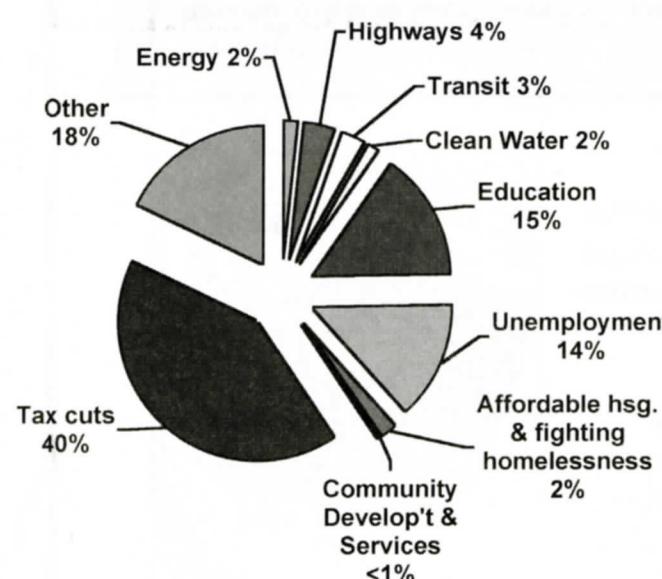


## The \$787 billion American Recovery and Reinvestment Act of 2009 (aka Stimulus Package) and Massachusetts

What will the passage of the American Recovery and Reinvestment Act mean for Massachusetts? Using the Center for American Progress state-by-state analysis of the stimulus bill signed into law by President Obama, The Boston Informer research division grouped the major elements into 10 categories. Here is a summary of where the money would go using the Center for American Progress' methodology. Its allocations are for the programs and tax cuts in the American Recovery and Reinvestment Act that are greater than \$1 billion and have funding formulas available. Estimates include only the money that would be funneled to the states; excluded are funds that will be spent directly by the federal government.

Spending on highways, bridges and transit accounts for only about 7% of the total. Other infrastructure spending is found in the clean water programs and in the education category. At about 40% of Massachusetts' total, tax cuts represent the largest part of the stimulus package.

### Estimated allocation to Massachusetts: \$11.7 – \$12.1 billion



Source: Center for American Progress • [www.americanprogress.org](http://www.americanprogress.org)

## What's Up?

**BRA Greenway District Planning Study** – The Boston Redevelopment Authority (BRA) hired Boston architects Utile with Ken Greenberg of Toronto (of the Crossroads Improvement program) to conduct a quick planning study on a newly defined [Rose Fitzgerald Kennedy] Greenway District. The study area identified in the BRA's request for proposals (RFP)—two blocks east and west of the Greenway, from Causeway to Kneeland streets—also includes the Bulfinch Triangle, Government Center and the U.S. Post Office site at So. Station. The initial budget for the nine-month study is \$150,000.

The RFP says the study "will develop guiding and planning principles for the new Greenway District" and will examine potential development opportunities, identify height, density, and use guidelines, and develop scenarios for future development in the area." The consultants and BRA will hold planning sessions and public meetings before issuing a final report. Although the consultant's scope of work does not include new zoning language, the BRA is likely to create new zoning for some of the Greenway District.

Major proposed developments that could be affected by the study results include redevelopment of the Government Center Garage by Raymond Property Co. and Boston Harbor Garage by Chiofaro and Co. Also, potential development at the Hook Lobster Co. site (destroyed by fire in May 2008), the Post Office site (for which Greenberg has been a consultant) and around Faneuil Hall Marketplace.

**Fort Point Channel Tower Proposed** – Developers Archon Group and Goldman Properties are proposing a 219-foot-high, 23-story tower with 290 residential units plus retail at 319 A Street. The building would replace a five-story building containing artist studios and small businesses. The tower would be by far the tallest building in the area, which was officially designated a Landmark District last month. The 55-acre Fort Point Channel Landmark District will be Boston's first commercial Landmark District; the other eight Landmark Districts are in primarily residential neighborhoods.

The developers have agreed to donate a building at 327 Summer St. to house the displaced tenants, thereby attempting to satisfy a requirement in the Fort Point Channel Master Plan that allows heights over 180 feet in return for providing housing and affordable housing. The development will not start for at least two years when the current lease expires.

**Senate Transportation Plan** – Almost 16 months after the Legislative Transportation Finance Commission's bombshell report on the state's transportation system, the Senate filed legislation to restructure the transportation agencies and authorities, creating the Massachusetts Surface Transportation Authority, aka MassTrans (47 other states call this the Dept. of Transportation). The new authority would have two divisions: roads and bridges and public transit. An 11-person board would oversee MassTrans. Senate President Murray hails the bill's reform elements, noting they will supplement the flagmen reforms instituted in April 2008. Yet most of the Finance Commission's reforms and revenue recommendations have yet to be addressed. More to come....

## PEOPLE MOVERS

James Aloisi, from Goulston & Storrs to secretary of transportation  
Bernard Cohen resigned as secretary of transportation.

Michael Festa resigned as secretary of elder affairs.

Dan O'Connell resigned as secretary of housing and community development.  
Greg Bialecki, from undersecretary of the Mass. Dept. of Business Development to secretary of housing and community development.

Michael Ross was elected president of the Boston City Council.

Ray LaHood was named U.S. Secretary of Transportation. He is a former Republican congressman from Illinois.

Lisa Jackson was named head of the Environmental Protection Agency (EPA) after serving in several government positions on New Jersey.

Wendy Stern, from undersecretary of transportation to deputy director of planning and development, MBTA.

Mark Boyle, from MBTA Planning to assistant general manager for planning, real estate, and environmental affairs.

Welcome to The Boston Informer

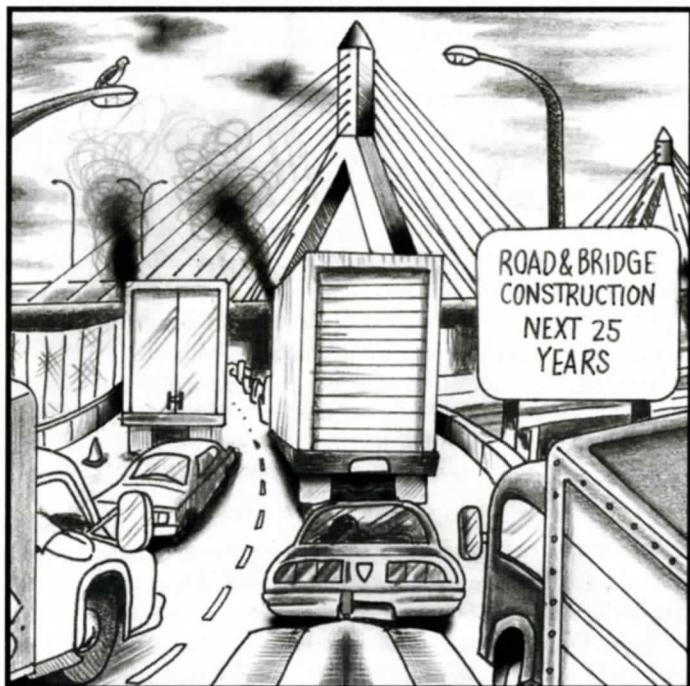
The goal is simple: Provide concise public information on construction projects, planning initiatives, and whatever else affects living and working in Boston. Welcome to The Boston Informer!

The Boston Informer is published by ATC Information, Inc., six times yearly in Boston, Massachusetts. President: Anthony Casendino; vice-presidents, Anne McKinnon, Chris Fincham.

The Boston Informer is available by mail only. \$25.00 per year (cheap!). Questions? Telephone (617) 723-7030, fax (617) 437-1886 or e-mail: [BostonInformer@cs.com](mailto:BostonInformer@cs.com). Check us out on the Web at [www.bostoninformer.com](http://www.bostoninformer.com)!

Correction: Reporting error—The Christian Science Center project was completed by I. M. Pei & Partners and Araldo Cossutta, Associated Architects.

*A state-appointed commission concluded it will take about \$20 billion over 20–25 years to repair the decayed roads and bridges in Massachusetts....*



## Then we start all over again

## You Were Asking

**Q. The BRA awarded the Hub Ticket site on Kneeland Street to developers over two years ago, kicked out Hub Ticket, but nothing has been built. Then I read that the team picked in June 2007 to develop Parcel 3 opposite Police HQ was de-designated by the BRA after only 18 months because it was not advancing the project (never mind that the City demolished Connolly's Bar in 1997 to make way for this project only to wait 7 years to solicit development proposals!). What's going on?**

A. According to the BRA, Hub Ticket site developers Amherst Media and Abbott Real Estate are still the designated development team but have no financing. According to reports in The Weekly Dig and The Boston Globe, the BRA is not giving the Elma Lewis Partners comparable slack to secure financing for Parcel 3.

**Q. It's great to hear the Mayor finally mentioning bikes. Where can I find out about the City's bike plans and priorities? When does the Bicycle Advisory Board meet?**

A. There is no updated bike plan or priority list yet. The Advisory Board was appointed in Jan. 2009 and has not yet convened. The City issued a Request for Proposals for a consultant to prepare a Bicycle Network Plan and to provide on-call engineering services to design bike lanes.

**Q. What's happening with the development of the old Filene's site (One Franklin Place)?**

A. The developer, Gale International, redesigned the project, eliminating all 140 condominiums and associated parking, citing reluctance of lenders to finance residential uses. This is a setback for those wanting to make Downtown Crossing a major residential area. With this and other smaller design changes Gale hopes to get financing and resume construction by March 2009.

**Q. I see construction work behind the New England Aquarium—what's going on?**

A. The Aquarium is building a new marine mammal center with a 700 s.f. shallow pool for sea lions and seals and a new glass-enclosed area near the pool for Aquarium visitors to interact with the animals. A wide pedestrian plaza for people not visiting the Aquarium will offer a view of sea lions and seals.

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